

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 9, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Consent to hire a consultant to design and implement a central database system to receive data from heterogeneous systems from multiple state agencies in order to comply with the reporting requirements of Section 5, Act 178, Session Laws of Hawaii 2006 (SLH 2006).

BACKGROUND:

Pursuant to Section 5 of Act 178, SLH 2006, the Department of Land and Natural Resources is required to annually compile detailed revenue data from all state agencies that use or manage public lands described in Section 5(f) of the Admission Act. Each agency is responsible for and maintains its own systems and procedures in the day-to-day management of these public lands.

In 2006, in order to comply with Act 178, staff from each of the dozen affected agencies collected data from their respective property management or accounting systems – a mix of spreadsheets, Quickbooks, Oracle databases, etc. However, the reporting requirements under Act 178 are new, and many agency systems and procedures do not track all of the data now needed. For some agencies this led to difficulties and in some cases an inability to provide complete information. Nevertheless, most agencies were able to submit their reports to DLNR on a standardized spreadsheet template in a timely manner.

DLNR staff reconciled these detailed reports with quarterly summary reports that the agencies already submit to B&F. In most cases discrepancies were resolved after painstaking review by both DLNR and agency staff.

The current heterogeneous environment and inconsistent data collection practices of various agencies make the task of compiling and consolidating the revenue data difficult and time-consuming. In addition, the limited access to and narrowly-defined purpose of the resultant data means that a lot of effort is being expended inefficiently.

There is a clear need to improve this process while increasing the access to and usefulness of the information. Doing so will require examining and modifying each agency's systems and

procedures, implementing a statewide server to house the compiled data, and developing interfaces between the server and the agency systems. The resulting database system is expected to greatly reduce the manual and duplicative effort required to collect and compile revenue data from these agencies. Funds for this work are included in a \$250,000 appropriation from the General Fund by the Legislature in Act 178, SLH 2006.

Neither DLNR nor the state's Information and Communication Services Division (ICSD) has the resources to undertake such a project at this time.

RECOMMENDATION:

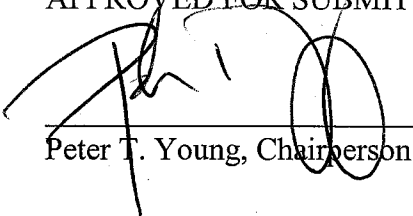
That the Board of Land and Natural Resources authorize the hiring of a consultant for the project indicated and authorize the Chairperson to sign the necessary documents pertaining to the project, subject to Governor's approval.

Respectfully Submitted,



Arthur Buto
State Land Information Systems Manager

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 7, 2006

GOV. MSG. NO. 717

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on June 7, 2006, the following bill was signed into law:

SB2948 SD1 HD2 CD1

A BILL FOR AN ACT RELATING TO
THE PUBLIC LAND TRUST.
(ACT 178)

Sincerely,

A handwritten signature in cursive script, reading "Georgina K. Kawamura".

GEORGINA K. KAWAMURA
Acting Governor

Exhibit A

Approved by the Governor
on JUN 7 2006

ACT 178

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2948
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO THE PUBLIC LAND TRUST.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In *Trustees of the Office of Hawaiian Affairs*
2 *v. Yamasaki*, 69 Haw. 154, 737 P.2d 446 (1987), the Hawaii
3 supreme court concluded that the issue of what constitutes the
4 office of Hawaiian affairs' pro rata portion of all the revenues
5 derived from the public land trust pursuant to article XII,
6 section 6 of the Hawaii Constitution, is a political question
7 for the legislature to determine. In *Yamasaki*, the office of
8 Hawaiian affairs sought a pro rata portion of revenues arising
9 out of the illegal mining of sand on Molokai and sales, leases,
10 and other disposition of lands surrounding state harbors, and
11 lands on Sand Island, the Honolulu International Airport, and
12 the Aloha Tower complex. The supreme court declined to rule
13 upon the substance of the case because it presented issues "of a
14 peculiarly political nature and therefore not meet for judicial
15 determination." *Id.*, at 175, 737 P.2d at 459.

16 In response to the *Yamasaki* decision, the legislature
17 enacted Act 304, Session Laws of Hawaii 1990 (Act 304), to
18 clarify the extent and scope of the State's constitutional



1 obligation to provide a portion of the revenues derived from the
2 public land trust to the office of Hawaiian affairs.

3 On September 12, 2001, the Hawaii supreme court ruled in
4 *Office of Hawaiian Affairs v. State of Hawai'i*, 96 Haw. 388, 31
5 P.3d 901 (2001), that Act 304 was effectively repealed by its
6 own terms, so that once again, it was necessary for the
7 legislature to specify what portion of which receipts, from
8 which lands the office of Hawaiian affairs was to receive a
9 portion of the revenues under the state constitution. In its
10 decision, the supreme court affirmed *Yamasaki*, observing:

11 [T]he State's obligation to native Hawaiians is
12 firmly established in our constitution. How the
13 State satisfies that constitutional obligation
14 requires policy decisions that are primarily within
15 the authority and expertise of the legislative
16 branch. As such, it is incumbent upon the
17 legislature to enact legislation that gives effect
18 to the right of native Hawaiians to benefit from the
19 ceded lands trust. See Haw. Const. art. XVI, §7.
20 Although this court cannot and will not judicially
21 legislate a means to give effect to the
22 constitutional rights of native Hawaiians, we will



1 not hesitate to declare unconstitutional those
2 enactments that do not comport with the mandates of
3 the constitution. At this juncture, we believe it
4 fitting to quote then-state Senator Neil
5 Abercrombie's prophetic statement to the legislature
6 at the time HRS §10-13.5 was first enacted:

7 I fear that for those who are
8 interested in seeing [OHA] move forward that
9 they have won a Pyrrhic victory, that this
10 is merely a skirmish in a very large battle.

11 [A]lthough I would be delighted to
12 say otherwise, I regret to say that I expect
13 that the moment this passes into statute,
14 there will be a suit and that the business
15 of the Office of Hawaiian Affairs is, as a
16 result, going to be tied up in court for
17 God-knows how many years.

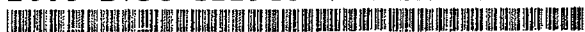
18 Now, more than twenty years later, as we
19 continue to struggle with giving effect to that
20 enactment, we trust that the legislature will
21 re-examine the State's constitutional obligation to
22 native Hawaiians and the purpose of HRS § 10-13.5 and



1 enact legislation that most effectively and
2 responsibly meets those obligations. (*Office of*
3 *Hawaiian Affairs v. State of Hawai'i*, 96 Haw. at 401,
4 31 P.3d at 914 (citations omitted; emphasis in
5 original)).

6 The legislature acknowledges that the State's obligation to
7 native Hawaiians is firmly established in the state
8 constitution. (See Haw. Const. art. XII.) While many complex
9 issues require the legislature's further attention and
10 consideration in the wake of the repeal of Act 304, the
11 legislature finds, in furtherance of the decision in *Yamasaki*,
12 that immediate action should be taken to clearly designate the
13 pro rata share of revenues derived from the public land trust
14 that the office of Hawaiian affairs is to receive annually.

15 The legislature also finds that information pertaining to
16 revenue generated by the public land trust should be
17 consolidated within a single state department or agency. In
18 prior years, it has been difficult to account for revenues
19 generated by the public land trust because basic revenue-
20 generating data was and is dispersed among multiple state
21 agencies. A single state department should be responsible for
22 compiling and providing an accounting of such information.



1 Accordingly, the specific purposes of this Act are to:

2 (1) Provide interim measures to ensure that an adequate
3 amount of income and proceeds is made available to the
4 office of Hawaiian affairs from the pro rata portion
5 of the public land trust, for the betterment of the
6 conditions of native Hawaiians; and

7 (2) Identify revenue-generating public trust lands and the
8 amounts derived from those lands by requiring that the
9 department of land and natural resources provide an
10 annual accounting to the legislature.

11 SECTION 2. Notwithstanding the provisions of chapter 10,
12 Hawaii Revised Statutes, including section 10-13.5, Hawaii
13 Revised Statutes, and until further action is taken by the
14 legislature for this purpose, the income and proceeds from the
15 pro rata portion of the public land trust under article XII,
16 section 6, of the state constitution for expenditure by the
17 office of Hawaiian affairs for the betterment of the conditions
18 of native Hawaiians for each fiscal year beginning with fiscal
19 year 2005-2006 shall be \$15,100,000.

20 SECTION 3. Notwithstanding the provisions of chapter 10,
21 Hawaii Revised Statutes, or the requirements of Executive Order
22 No. 03-03, beginning in fiscal year 2005-2006, the departments

1 of agriculture, accounting and general services, business,
2 economic development, and tourism, education, land and natural
3 resources, and transportation (for its harbors division), and
4 any other department or agency that collects receipts from the
5 lands within the public land trust, shall determine and transfer
6 to the office of Hawaiian affairs that portion of their receipts
7 from the use of lands within the public land trust collected
8 during each fiscal quarter, necessary to ensure that a total of
9 \$3,775,000 of revenues generated by the public land trust is
10 transferred to the office of Hawaiian affairs, within thirty
11 days of the close of each fiscal quarter; provided that for
12 fiscal year 2005-2006, the departments shall have until thirty
13 days after the close of the fiscal year to transfer a total of
14 \$15,100,000 from their receipts from the use of lands within the
15 public land trust collected during fiscal year 2005-2006, to the
16 office of Hawaiian affairs whether by the procedures set out in
17 Executive Order No. 03-03 or this Act.

18 The governor is expressly authorized to fix the amounts
19 each agency shall transfer to the office of Hawaiian affairs in
20 each quarter by executive order to implement the provisions of
21 this section.



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$17,500,000 or so
3 much thereof as may be necessary for fiscal year 2005-2006 to
4 pay to the office of Hawaiian affairs amounts received from the
5 use of lands in the public land trust that the legislature has
6 determined were underpaid between July 1, 2001, through June 30,
7 2005. The sum appropriated shall be expended by the department
8 of budget and finance.

9 SECTION 5. Not later than January 1 of each year, the
10 department of land and natural resources, with the cooperation
11 of the department of budget and finance and any other state
12 department or agency that uses or manages public lands, shall
13 provide an accounting of all receipts from lands described in
14 section 5(f) of the Admission Act for the prior fiscal year.
15 With respect to each receipt, the department of land and natural
16 resources shall identify:

- 17 (1) The total gross amount;
- 18 (2) The amount transferred to the office of Hawaiian
19 affairs;
- 20 (3) The amount retained by the State;
- 21 (4) The account or fund in which the amount specified in
22 paragraph (3) was transferred or deposited;

(5) The parcel of land subject to section 5(f) of the Admission Act that generated the receipt, whether by tax map key number, department of land and natural resources inventory number, or other recognizable description; and

(6) The state department or agency that received the total gross amount identified in paragraph (1).

The accounting shall also indicate whether any parcel of land described in section 5(f) of the Admission Act was sold or exchanged in the prior fiscal year and, if so, the amount of consideration that the State received for the respective parcels.

The office of Hawaiian affairs shall be consulted by the department of land and natural resources in determining the method in which the accounting shall be conducted.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2006-2007 to carry out the purpose of section 5.

The sum appropriated shall be expended by the department of land and natural resources. Should any additional funds be necessary to carry out the purpose of section 5 after the

1 department of land and natural resources has expended the
2 \$250,000 appropriated out of the general revenues of the State
3 of Hawaii, the office of Hawaiian affairs shall provide the
4 additional funds up to \$250,000.

5 SECTION 7. Nothing in this Act shall resolve or settle, or
6 be deemed to acknowledge the existence of, the claims of native
7 Hawaiians to the income and proceeds of a pro rata portion of
8 the public land trust under article XII, section 6, of the state
9 constitution.

10 SECTION 8. This Act shall take effect upon its approval.



GOVERNOR OF THE STATE OF HAWAII

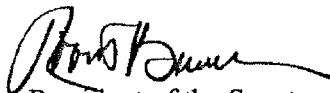
Approved this day: June 7, 2006

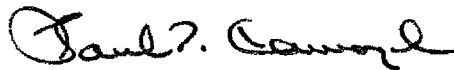
S.B. No. 2948, S.D. 1, H.D. 2, C.D. 1

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.

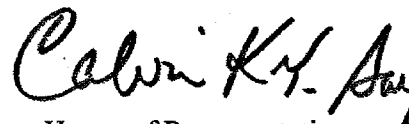
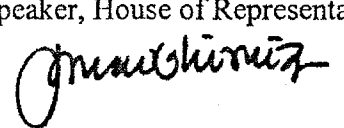

President of the Senate


Clerk of the Senate

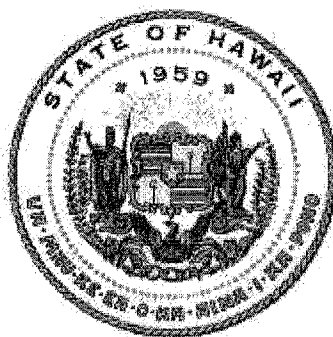
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular
Session of 2006.


Speaker, House of Representatives

Clerk, House of Representatives

ACCOUNTING OF ALL RECEIPTS FROM LANDS DESCRIBED IN SECTION 5(f)
OF THE ADMISSION ACT FOR FISCAL YEAR 2005-2006



Prepared by

THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

In response to Section 5 of Act 178, Session Laws of Hawaii 2006

Honolulu, Hawaii

January 2007

Exhibit B

**ACCOUNTING OF ALL RECEIPTS FROM LANDS DESCRIBED IN SECTION
5(f) OF THE ADMISSION ACT FOR FISCAL YEAR 2005-2006**

This report is prepared pursuant to Section 5 of Act 178, Session Laws of Hawaii (SLH) 2006, which calls for the Department of Land and Natural Resources (DLNR) to provide an accounting of all receipts from lands described in section 5(f) of the Admission Act, for the prior fiscal year (FY).

Section 5 of Act 178, SLH 2006 states:

“Not later than January 1 of each year, the department of land and natural resources, with the cooperation of the department of budget and finance and any other state department or agency that uses or manages public lands, shall provide an accounting of all receipts from lands described in section 5(f) of the Admission Act for the prior fiscal year. With respect to each receipt, the department of land and natural resources shall identify:

- (1) The total gross amount;
- (2) The amount transferred to the Office of Hawaiian Affairs (OHA);
- (3) The amount retained by the State;
- (4) The account or fund in which the amount specified in paragraph (3) was transferred or deposited;
- (5) The parcel of land subject to section 5(f) of the Admission Act that generated the receipt, whether by tax map key number, department of land and natural resources inventory number, or other recognizable description; and
- (6) The state department or agency that received the total gross amount identified in paragraph (1).

The accounting shall also indicate whether any parcel of land described in section 5(f) of the Admission Act was sold or exchanged in the prior fiscal year and, if so, the amount of consideration that the State received for the respective parcels.”

Methodology Used

In August 2006, a joint memorandum from the Department of Budget and Finance (B&F) and DLNR was sent to all departments informing them of the reporting requirements of Act 178, SLH 2006, for agencies that generate revenue from lands described in section 5(f) of the Admission Act. Agencies were instructed to submit their data to DLNR on a standardized spreadsheet template laying out the required data elements.

The following departments submitted revenue reports for FY 2005-2006:

- Accounting and General Services (DAGS)
- Agriculture (DOA)
 - Agribusiness Development Corporation (ADC)
- Business, Economic Development, and Tourism (DBEDT)
 - Foreign Trade Zone (FTZ)
 - Hawaii Community Development Authority (HCDA)
 - Natural Energy Laboratory of Hawaii Authority (NELHA)
 - Hawaii Housing Finance and Development Corporation (HHFDC)
- Education (DOE)
- Health (DOH)
 - Hawaii Health System Corporation (HHSC)
- Land and Natural Resources (DLNR)
- Transportation (DOT)
 - Airports
 - Harbors
 - Highways

The following departments did not submit revenue reports for FY 2005-2006:

- Human Services (DHS)
 - Hawaii Public Housing Authority (HPHA)
- University of Hawaii (UH)

The following procedures were performed in order to compile the data from these agencies:

- Agency reports were checked for completeness – total gross amount, amount transferred to the Office of Hawaiian Affairs (OHA), amount retained by the State, etc.
- The total amounts transferred to OHA and reported by the agencies were reconciled to the transfers on file at B&F and to the amounts reported as received by OHA.
- If the report was not complete or if the totals transferred did not agree with B&F or OHA records, DLNR staff contacted the agency representative for clarification, correction or resubmission of the report.
- Data was then compiled and summarized on the attached table titled "Summary of Receipts from Lands Described in Section 5(f) of the Admission Act by Department for Fiscal Year Ended 2005-2006."
- As required by Act 178, SLH 2006, DLNR consulted with OHA in determining the method in which the accounting for this report was to be conducted.
- At OHA's request, DLNR also compiled a table identifying parcels that were sold or exchanged during this reporting period. (These transactions are already included and identified in the agency revenue reports, but are separately reported for convenience.)
- Responsibility for the accuracy of individual transactions continues to rest within each agency's jurisdiction. Verifying the accuracy of such transactions was beyond the scope of the specified tasks prescribed in Act 178. Similarly, the confirmation of trust land status for each parcel was not conducted as part of this report.

In the process of reviewing and compiling data from the other agencies, DLNR encountered accounting systems with varying degrees of complexity and sophistication, and some agency systems had difficulty or were not readily capable of providing all of the required information (e.g., TMK parcel, etc.).

DLNR compiled its own departmental data using a program-specific automated system to sort the required data stored within its computerized real property management system known as SLIMS. Individual transactions in SLIMS are coded by encumbrance, tax map key and revenue account which greatly facilitated extracting and verifying the relevant data. It should be noted that though this system facilitated DLNR's efforts to comply with the reporting provisions of Act 178, the SLIMS system is unique to DLNR's land

management responsibilities and cannot be universally applied to other agency transactions.

There is a clear need for reliable and consistent data collection across state agencies in order to facilitate compliance with the reporting requirements of Act 178. This effort will require an in-depth analysis, as well as design, development, implementation and documentation of modifications to the various agencies' systems and procedures. We hope to also develop and implement a central database system to receive relevant data from these agencies and to produce the reports required by Act 178. This database system, together with the modified agency systems will not only facilitate and streamline reporting, but will lead to better coordination between agencies and to more effective use of existing staffing resources.

Summary of Receipts from Lands Described in Section 5(f) of the Admission Act by Department				
For Fiscal Year Ended 2005-2006				
ACT 178				
Department	Amount Retained by the State	Amount Transferred to OHA	Gross Receipt	Reference
Accounting and General Services	92,281.60	23,070.40	115,352.00	Attachment 1
Agriculture	395,777.10	98,944.27	494,721.37	Attachment 2
Agribusiness Development Corporation	197,292.89	38,014.57	235,307.46	Attachment 3
Business, Economic Development, Tourism				
Foreign Trade Zone	54,394.42	13,598.60	67,993.02	Attachment 4
Hawaii Community Development Authority	537,997.57	134,499.50	672,497.07	Attachment 5
National Energy Laboratory of Hawaii Authority	2,575,936.00	191,182.85	2,767,118.85	Attachment 6
Hawaii Housing Finance and Development Corporation	396,785.28		396,785.28	Attachment 7
Education	250,586.49	54,728.90	305,315.39	Attachment 8
Health				
Hawaii Health System Corporation	1,948,687.35		1,948,687.35	Attachment 9
Human Services				
Hawaii Public Housing Authority				No report submitted
Land and Natural Resources	15,814,592.54	3,989,341.75	19,803,934.29	Attachment 10
Transportation				
Airports	40,108,652.00		40,108,652.00	Attachment 11
Harbors	42,910,170.67	6,554,762.02	49,464,932.69	Attachment 12
Highways	3,852.00		3,852.00	Attachment 13
University of Hawaii				No report submitted
Totals	105,287,005.91	11,098,142.86	116,385,148.77	